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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,809	10/06/2004	James E. Brooks	22.1552	5808

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EXAMINER

DAVID, MICHAEL D

ART UNIT	PAPER NUMBER
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3641

NOTIFICATION DATE	DELIVERY MODE
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11/12/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/711,809	Applicant(s) BROOKS ET AL.	
	Examiner MICHAEL D. DAVID	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 23-27 and 32-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 28-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/6/2004, 12/6/2004, 7/6/2006, and 5/1/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group 1 and Species I drawn to claims 1-22 and 28-31 in the reply filed on 3/31/2008 is acknowledged.

Claims 23-27 and 32-48 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected groups and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/31/2008.

Information Disclosure Statement

The information disclosure statements (IDS) submitted on 10/6/2004, 12/6/2004, 7/6/2006, and 5/1/2008 have been considered by the examiner.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The

abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, **"The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.**

The abstract of the disclosure is objected to because of the statement "It is emphasized that this abstract is provided to comply with the rules requiring an abstract, which will allow a searcher or other reader to quickly ascertain the subject matter of the technical disclosure. It is submitted with the understanding that it will not be used to interpret or limit the scope or meaning of the claims. 37 CFR 1.72(b)" which is unnecessary.

The disclosure is objected to because of the following informalities: On page 5, last line it appears that "connectiong" should be replaced by "connecting". Examiner notes that this is not an exhaustive list and it is suggested that the applicant carefully review entire application to make appropriate corrections.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 3-5 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "thick" in claims 3-5 and 12 is a relative term which renders the claim indefinite. The term "thick" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Accordingly, the resistor degree of thickness required in applicant's film is indefinite.

The term "thin" in claim 12 is a relative term which renders the claim indefinite. The term "thin" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Accordingly, the resistor degree of thickness required in applicant's film is indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Liu (US Patent No. 6470803 B1).

Regarding claim 1, Liu discloses a detonator assembly (detonator apparatus – abstract), comprising: a capacitor (106, 100 – fig. 6); an initiator (bridgewire 54 – fig. 2, 3) mechanically and electrically connected to the capacitor (all the components are mechanically and electrically connected to one another by wire 78); a transformer (80 – fig. 3a; 152 – fig. 7) mechanically and electrically connected to the capacitor (all the components are mechanically and electrically connected to one another); and an addressable chip (chip 92 – fig. 6) mechanically and electrically connected to the transformer, wherein the capacitor, initiator, transformer, and addressable chip form an integrated detonating unit.

Regarding claim 8, Liu discloses wherein the initiator comprises a bridge wire (see rejection of claim 1 above).

Claims 15-21, 28-29, and 31 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Liu (US Patent No. 6470803 B1).

Regarding claims 15-21 and 28, Liu discloses a detonator assembly with an addressable chip (chip 92 – fig. 6) that can be programmed to perform anyone of the various functions recited in claims 15-21 and 28. Also, see the obviousness rejections regarding these claims in the "Claim Rejections - 35 USC 103" section below.

Regarding claim 29, Liu further discloses a detonator assembly comprising a housing (32 – fig. 1). Also, see the obviousness rejections regarding this claim in the "Claim Rejections - 35 USC 103" section below.

Regarding claim 31, Liu discloses a detonator assembly wherein the housing is coupled with a detonating cord (30 – fig. 1) having a predetermined diameter. Also, see the obviousness rejections regarding this claim in the "Claim Rejections - 35 USC 103" section below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (US Patent No. 6470803 B1) in view of Brooks (US Patent Application Publication No. 2004/0003743 A1).

Regarding claim 2, Liu discloses the detonator assembly of claim 1 as set forth above except he does explicitly disclose a capacitor discharge unit, the capacitor discharge unit comprising the capacitor and a resistor. However, Brooks discloses

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within the same field of endeavor (detonators) the use of a capacitor discharge unit having a capacitor and a resistor (102 – fig. 2) in order to provide a means to store a charge/electricity and then discharge it at a preferred time (like a switch). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the detonator assembly of Liu with a capacitor discharge unit similar to that of Brooks in order to provide a means to store a charge/electricity and then discharge it at a preferred time (like a switch).

Regarding claim 3, Brooks further discloses wherein the capacitor discharge unit further comprises a thick-film circuit (par. 7) that electrically connects the capacitor and the resistor.

Regarding claim 4, Brooks further discloses wherein the resistor comprises a bleeder resistor (par. 7) formed by thick-film deposition, the bleeder resistor adapted to bleed charge from the capacitor.

Regarding claim 5, Brooks further discloses wherein the resistor comprises a charging resistor (par. 7) formed by thick-film deposition, the charging resistor adapted to receive a charging voltage for the capacitor.

Regarding claim 6 Liu modified by Brooks discloses the claimed invention except for wherein the CDU further comprises an integrated “micro” switch (different types of switches disclosed in par. 7 and 14). It would have been an obvious matter of design choice to use a “micro” switch, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

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Further, in *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

Regarding claim 7, Liu further discloses a switch comprising a MOSFET (col. 9 line 57, col. 10 lines 19, 22).

Regarding claim 9, Brooks further discloses wherein the initiator comprises an exploding foil initiator fused directly to the capacitor discharge unit (fig. 2).

Regarding claim 10, Brooks further discloses a detonator comprising an explosive (HE 106 – fig. 2) proximate the initiator (EFI – fig. 2).

Regarding claim 11, Brooks further discloses wherein the capacitor is fabricated from a dielectric ceramic material (par. 33).

Regarding claim 12, Brooks further discloses wherein the resistor is selected from the group consisting of a thick-film resistor and a thin-film resistor (par. 36).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (US Patent No. 6470803 B1) in view of Mohr (US Patent No. 3963966).

Regarding claim 13, Liu discloses the detonator assembly of claim 1 as set forth above except he does not explicitly disclose wherein the transformer is a piezoelectric transformer. However, Mohr discloses within the same field of endeavor (igniters and detonators) that it is known in the art to use piezoelectric transformers (col. 2 line 61) in

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order to “generate a maximum electric energy” (col. 2 line 61-62). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the detonator assembly of Liu by using a piezoelectric transformer similar to that of Mohr's in order to generate a maximum electric energy.

Claims 14-21 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (US Patent No. 6470803 B1).

Regarding claim 14, Liu discloses the claimed invention except for a second transformer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have second transformer, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claims 14-21, 28-29, and 31 it has been held that the recitation that an element is “adapted to” perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138. In this case, regarding claim 14, Liu already discloses a transformer as set forth above in the rejection of claims 14 and 1. In this case, regarding claims 15-21 and 28, since Liu discloses a chip (as set forth above in claim 1) that can be programmed, it would have been obvious to program it to perform anyone of the various functions recited in claims 15-21 and 28.

Regarding claim 29, Liu further discloses a detonator assembly comprising a housing (32 – fig. 1) adapted to hold the detonating unit. Regarding the “adapted to” limitation see paragraph above about “adapted to” limitations.

Regarding claim 30, Liu discloses the claimed invention except he does not explicitly disclose wherein the housing has an outer diameter of approximately 0.28 inches. It would have been an obvious matter of design choice to make a housing with a diameter of approximately .28 inches, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Further, in *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

Regarding claim 31, Liu discloses a detonator assembly wherein the housing is coupled with a detonating cord (30 – fig. 1) having a predetermined diameter. Regarding the “adapted to” limitation see paragraph above about “adapted to” limitations.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (US Patent No. 6470803 B1) in view of Vaynshteyn (US Patent No. 6179064 B1).

Regarding claim 22, Liu discloses the detonator assembly of claim 21 except he does not explicitly disclose wherein the sensor is a pressure sensor. However, Vaynshteyn discloses within the same field of endeavor (detonators), that it is known in the art to use pressure sensors (col. 4 lines 10-12) in order to detect firing of a

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perforating gun (col. 4 line 12). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the detonator assembly of Liu with a pressure sensor similar to that of Vaynshteyn's in order to detect a change in pressure of something such as the firing of a perforating gun.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of record discloses various detonator assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D. David whose telephone number is 571-270-3737. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MDD/
10/31/2008

/Bret Hayes/

Primary Examiner, Art Unit 3641